IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7963 OF 2006

Ashish Jayantilal Sangoi (Shah) ...Petitioner

vs.

M/s.Amar Shoes and others ...Respondents

Mr.G.S.Godbole with Mr.P.V.Sipahimalani for the Petitioner
Ms Yogini Gada i/b M/s.Harakhad & Co. for Respondent No.3.

CORAM: A.S.OKA,J.
DATE : MARCH 5,2007.

P.C.:

1. Heard the learned Counsel for the Petitioner and the learned Counsel for the third Respondent. Office noting shows that the first respondent is duly served and the second Respondent is represented by an Advocate.

2. The challenge in this Writ Petition under Article 227 of Constitution of India is to the order dated 20th November 2006 passed by the learned Principal Judge, City Civil Court, Mumbai.

3. An Application for transfer was made by the Petitioner on the allegation that the concerned learned Judge had not adopted impartial and unbiased approach and therefore, there was an apprehension that the Petitioner will not get justice from the said Judge. The apprehension was based on various orders passed by the learned Judge including the order passed on 6th October 2006 directing the Petitioner to file written

submissions.

4. I have heard the submissions of the learned Counsel for the Petitioner and learned Counsel for the third Respondent. After having heard the submissions, I find that there was absolutely no merit in the prayer made for transfer of the case. There are three Notices of Motion pending in the suit filed by the Petitioner. When the learned Trial Judge found that the arguments were being prolonged, he directed the Petitioner-Plaintiff to file written arguments. There was no error with the said approach adopted by the learned Trial Judge.

5. However, due to subsequent events, prayer for transfer has become academic as the suit has been assigned to another learned Judge and the learned Judge who was earlier dealing with the case has been entrusted with the trial of the cases under the Narcotic Drugs and Psychotropic Substances Act, 1985. The Petitioner has filed an Affidavit dated 27th February 2007. By the said Affidavit the Petitioner has unconditionally withdrawn all the allegations made against the learned trial Judge and he has also unconditionally withdrawn all the remarks made by him against the learned trial Judge. He has tendered an apology for making the allegations and remarks. The Petitioner has also deposited a sum of Rs.2,000/- by way of donation to Maharashtra State Legal

Services Authority. In my view, the apology tendered by the petitioner deserves to be accepted and is accordingly accepted.

6. The learned Counsel for the third Respondent submitted that the earlier Judge had substantially heard the Notices of Motion and therefore, the suit be transferred to the same learned Judge. However, this request cannot be acceded to as the learned Judge has been given another assignment. The grievance made by the learned counsel for the third Respondent that the Petitioner has been prolonging the hearing of Notices of Motion for one reason or the other and the third Respondent is suffering as there is ad-interim order operating against the said Respondent.

7. Considering what has transpired in the case, it is necessary that the Notices of Motion which are pending should be disposed of as expeditiously as possible. Though by an earlier order, the learned Trial Judge had directed the Petitioner to file written submissions, it is made clear that the Advocate for the Petitioner will be entitled to make oral submissions.

8. Hence, Writ Petition is disposed of by passing the following order :

i) Writ Petition is rejected.

ii) The learned Trial Judge before whom the Notices of Motion are pending shall decide the same as expeditiously as possible and within a period of six weeks from the date of production of an authenticated copy of this order.

iii) The Petitioner is directed to cooperate for expeditious disposal of the Notices of Motion. The Petitioner will not seek adjournment on any unreasonable ground and will ensure that the submissions are completed as expeditiously as possible.

iv) All contentions of the parties in the pending proceedings are kept open.

v) In view of payment of donation by the Petitioner to Maharashtra State Legal Services Authority, there will be no order as to costs.

vi) Parties and the concerned court to act upon an authenticated copy of this order.

JUDGE